IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.PADMANABHAN NAIR

WEDNESDAY, THE 11TH APRIL 2007 / 21ST CHAITHRA 1929

MFA.No. 1069 of 2001(B)

OPMV.970/1997 of MOTOR ACCIDENT CLAIMS TRIBUNAL, KASARAGOD

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APPELLANT - PETITIONER:

P. KARUNAN @ KARUNAKARAN, AGED 37 YEARS,
S/O. KUNHIRAMAN, PALAKKI HOUSE,
MANIKOTH, AJANUR VILLAGE.

BY ADV. SRI.M.THAMBAN
SMT.T.SUDHAMANI

RESPONDENTS :
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1. **K. BHASKARAN, AGED 26 YEARS, S/O.NARAYANAN KALANTHINKAL, KARIPPODI HOUSE, UDMA (DELETED)**

2. **SURESH, S/O. P.V. RAMAN, SREEJA NILAYAM, P.O. UDMA, KASARGOD.**

3. **THE BRANCH MANAGER, ORIENTAL INSURANCE CO. LTD., THALIPARAMBA.**

R1 IS DELETED FROM THE PARTY ARRAY AS PER ORDER DATED 2.4.2007 IN I.A. NO.697 OF 2007 AT THE RISK OF THE APPELLANT

BY ADV. SRI.ANCHAL C.VIJAYAN

THIS MISC. FIRST APPEAL HAVING BEEN FINALLY HEARD ON 11/04/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K. PADMANABHAN NAIR, J.

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M.F.A. NO. 1069 OF 2001

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Dated this the 11th day of April, 2007

J U D G M E N T

Heard. Admitted. Advocate Shri Anchal C.Vijayan taken notice for the third respondent. Notice to the second respondent is dispensed with. The Appeal itself is heard and disposed of as agreed to by both sides.

2. Petitioner in O.P(MV) No.970 of 1997 on the file of the Motor Accidents Claims Tribunal, Kasargod is the appellant. Appellant met with an accident on 6.3.1996. He filed the claim petition claiming a compensation of Rs.1,00,000/-. The Tribunal found that the accident occurred due to the negligence of the driver of the vehicle. It was also found that the petitioner was entitled to get Rs.17,840/- as compensation. It was further found that the Insurer is liable to pay the amount awarded. Complaining inadequacy of the compensation awarded, this appeal is filed.

3. Learned counsel for the appellant submitted that the

appellant sustained a fracture on his right clavicle. On a technical ground that he has not produced a disability certificate the Tribunal did not awarded compensation on that head. Evidence on record shows that immediately after the accident, appellant was admitted to the K.H.M. Hospital, Manikoth. From there he was referred to District Hospital, Kanhangad and later he was referred to Dr. T.M.A. Pai Hospital, Mangalore, for expert treatment. The fact that the appellant sustained a clavicle fracture is not disputed. Exhibit A3 is the accident-cum-wound certificate. Exhibit A6 is the discharge card issued by the Dr.T.M.A. Pai Hospital, Mangalore which proves the fracture sustained by the appellant. Evidence on record also shows that the appellant was treated in three Hospitals. Considering all aspects of the case, I am of the view that the Tribunal ought to have awarded Rs.10,000/- more as compensation towards loss of amenities, disability, loss of earning capacity, etc.

In the result, the appeal is allowed. An award is passed in favour of the petitioner allowing him to recover a further sum of Rs.10,000/- as additional compensation with interest at 7% per

annum from the date of petition till realisation. The Insurer shall pay this amount also.

K. PADMANABHAN NAIR, JUDGE.

vsv

K. PADMANABHAN NAIR, J.

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M.F.A. 1069 OF 2001

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J U D G M E N T

11TH APRIL, 2007